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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/732,820	12/10/2003	Andrea L. Lewis	KCX-807 (19722)	6792
22827	7590	03/22/2005	EXAMINER	
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			HALE, GLORIA M	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/732,820	<b>Applicant(s)</b> LEWIS, ANDREA L.	
	<b>Examiner</b> Gloria Hale	<b>Art Unit</b> 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12-2-04</u> . | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10-13, 16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Boykins (US 5,933,864).

Boykins discloses a protective garment 12 with a front portion, back portion and sleeves with a skin wellness agent of a uniform coating of a lotion or skin protectant deposited on an inner body facing surface or on sleeves (leg sleeves) 34 as broadly claimed. The garment inner body facing surface has continuous contact with the wearer's skin and is therefore form-fitting as broadly claimed. (See Boykins, col. 2, line 45 – col. 3, line 24 and figures 1 and 6).

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 7-16 and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Faries, Jr. et al (US 6,548,728).

Faries, Jr. et al discloses a protective garment (10) including a body portion (vest) which includes a front portion (18, 20), back portion (16) and sleeve (not numbered-arm portions as described in col. 11, line 45 – col. 12, line 13) with the skin wellness agent

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(14) in a uniform coating of an emollient or skin protectant, gel on the front, back or sleeve inner body facing surface. Faries et al discloses constructing the garment with cuffs in that the garment can include wrist portions as desired in that the elastomeric layer 34 at the sleeve ends conforms to the wrists of the wearer as cuffs. Since Faries et al. discloses constructing the garment contacts the skin of the wearer to treat the wearer it is form-fitting and the sleeve would inherently include a reduced circumference from the upper arm to the wrist portion or cuff since the wearers wrist is inherently smaller than an upper arm. The inner surface is form-fitting with layer 34 and has continuous contact with the wearer's skin. The fit of the garment depends upon the size of the wearer and their proportionate or non-proportionate fit on the body portions of the wearer as broadly claimed. No structure has been claimed to define the "loose-fitting" limitation. Faries et al discloses the elastomeric material 34 to conform to the wearer's body as broadly claimed. (See Faries et al. col. 5, line 60 – col. 7, line 18 and col. 12, lines 27 –47).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Faries et al (US 6,548,728) in view of Scrivens(US 4,631,756).

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Faries et al discloses the invention substantially as claimed except for the description of a single sleeve seam. Scriven discloses a gown with a single sleeve seam 11 closed by conventional stitching means. (See Scrivens figure 6 and col. 3, lines 5-16). Accordingly it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the garment of Faries et al to include a single seam which is conventional in garment manufacturing and as disclosed by Scrivens for ease in manufacturing.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Faries et al (US 6,548,728) in view of Grimm et al (US 3,156,927).

Faries et al discloses the invention substantially as claimed except for the description of a two seam sleeve construction. Grimm et al discloses a gown with a two seam (seam 27 and upper seam-not numbered as seen in figure 1)sleeve construction closed by conventional means. (See Grimm et al., col. 2, lines 27-31). Accordingly it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the garment of Faries et al to include a two seam sleeve construction which is conventional in garment manufacturing and as disclosed by Grimm et al for ease in manufacturing.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boykins (US 5,933,864) in view of Foley et al (US 6,695,678).

Boykins et al discloses the invention substantially as claimed. However, Boykins et al does not disclose the lotion/medicament as being in discrete or separate unconnected locations. Foley et al discloses a skin wellness agent deposited in discrete locations.

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(See Foley et al, figures 5-13; col. 1, line 56 – col. 2, line 8; col. 4, line 22 –30,53- col. 5, line 32). Accordingly it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the garment of Boykins et al to include the treatment medicament/lotion in selected, discrete locations as desired to treat selected areas and to leave areas that one does not wish to be exposed to the treatment free from the lotion/medicament as disclosed by Foley et al.

Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boykins et al.

Boykins et al discloses the garment substantially as claimed except for that the “sleeve” is an arm sleeve with the claimed areas of treatment. Placing the treatment lotion location in other body areas such as the arm sleeve would be an obvious design choice modification since the arm sleeve is a tubular body portion/garment area similar to the leg area sleeve. The arm area is a body area, which would also be affected by the same medical problem as the leg area, which is treated with the leg sleeve with the lotion. Therefore, adding the same lotion to the arm sleeve would have been within the skill of one of ordinary skill in the art at the time the invention was made in addition to placing it in any other garment/body area as desired in order to treat that area.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pierron et al (US 3,798,678) discloses a medical gown sleeve

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with a cuff and Fellegi (US 2,239,998) discloses a garment with an elastomeric lower sleeve portion and cuff.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria Hale whose telephone number is 571-272-4984. The examiner can normally be reached on Tues.-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on 571-272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gloria Hale  
Primary Examiner  
Art Unit 3765

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